

Agape Church, Inc. ("ACI") would like to submit the following comments in the matter of MB Docket No. 07-91 (FCC 07-70, Notice of Proposed Rulemaking).

Specifically, in regards to the issue of further restricting the circumstances under which additional extensions of construction of final DTV facilities would be granted for financial reasons, we believe that it is insufficient for the Commission to apply the proposed unilateral constraints to all stations that have not fully built-out to date.

As paragraph 82 elucidates, the Commission's stated intent in the added restrictions on extensions of time is that "stations at this stage in the transition must finalize their construction plans and implement them." It is our contention that simply refusing to allow stations that are still suffering financial difficulties (and yet do not meet the criteria of suffering "severe financial hardship" as defined in paragraph 82) does not fulfill the stated objective. Certain stations that may otherwise be fully committed to building full power digital facilities by the statutory deadline, but may still be in difficult financial circumstances, will not be encouraged to build out faster simply by refusing further extensions.

For instance, some independent or small-group stations of a niche nature (such as KVTN owned by Agape Church, Inc., a full power commercial UHF station that supplies religious programming) are sustained by donations from the viewing public. Because of the limitations in such stations' abilities to control fundraising or to obtain financing assistance, they have to pace themselves in order to reach the goal of being on-air by the statutory deadline. This ability to pace themselves is the main point of "leverage" that such stations have. In cases like these, refusing to grant further extensions of time to construct removes this leverage and forces stations to make decisions now that may be unwise or unsustainable for the long-term future. Causing the long-term failure of such stations in order to require that a station be on-air before the statutory deadline (i.e., at the end of the current CP terms) can hardly be deemed to be in the public interest, or in the Commission's interests in getting these stations to the goal.

Further requirements to provide audited financial statements to secure an additional extension forces the station to divert crucial DTV construction capital to these expensive outside audits.

Instead of the Commission's proposed changes to section 73.624(d)(3)(ii)(C), we contend that the four-part test should remain in force, and that stations that are able to show in their applications for extension of time to construct that they are indeed making physical and financial progress, and that construction is indeed underway, should be allowed to have further extensions granted. Also, weather should be considered as a factor in such proceedings as well, since any setbacks of any nature drastically affect these stations' abilities to make the deadlines.

However, should the Commission approve the proposed changes to the instant section, we contend that the new wording should take effect only after a six month period, during which the next round of

applications for extension of time to construct could be considered under the current rules. Again, this is in consideration of the Commission's stated goals, without applying undue burdens to stations already struggling by requiring them to build out before the statutory deadline.

In conjunction with above, as these stations proceed with fundraising and/or financing solutions to complete the build-out, they should have the option to be allowed to reduce their post-transition digital facilities temporarily in order to save their license until they can achieve maximization at some later date. Such reduction of facilities should be not be considered below current analog coverage. This should be granted without penalty due to the fact the stations are already financially struggling.